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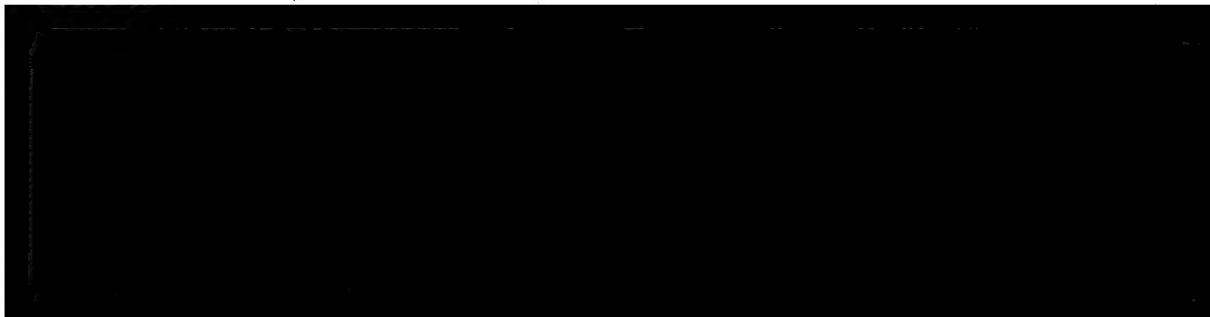
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ORIGIN [REDACTED]

SUPPLEMENT

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The similarities between the administrative organization envisaged in the Constitution and the administrative organization developed by the Indochinese Communist Party are discussed more fully in a current report on the Structure of the Indochinese Communist Party.

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[REDACTED] In November 1945 the Provisional Government of Vietnam nominated a Commission to Draft the Constitution. This Commission included: NGUYEN Ha Long Bang, DANG Xuan Khu, DANG Thai Mai and possibly HA Ba Trung. Unofficially, HO chi Minh and VO nguyen Giap participated and advised. A preliminary Draft was published in January 1946, prior to the first General Elections, and was submitted for discussion to the People's Assembly, where it was debated at length. The daily and weekly press also contained detailed discussions on the subject. The most important and serious criticisms levelled at it were those in the Marxist press, which accused the Draft Constitution of being too parliamentarian. The Government, on the other hand, engaged in a wide propaganda campaign to influence popular opinion in favor of its adoption. This indicates that the true communist leaders of the Viet Minh understood more clearly the necessity of disguising the new Republic as a Democratic one than did some of the young Marxist leaders who wrote for the Marxist press and who were disappointed in the lack of resemblance between the Draft Constitution and the Constitution of the USSR. The text of the original Draft Constitution is not available [REDACTED] and can not therefore be compared with the Constitution finally adopted (text below). Based on recollection, [REDACTED] that the final form differs from the Draft Constitution principally in reduction in length and in greater clarity of language. After its

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adoption by the Assembly on 8 November 1946, and its promulgation by President HO chi Minh the following day, it was intended to submit it to popular referendum. This step was of course prevented by the outbreak of hostilities. Nevertheless, it is still considered to be the Constitution of the Republic of Vietnam, and at least in theory, it governs the conduct of the Government. In practice there have been numerous violations.

The Drafters of the Constitution, assisted by constant advice from HO chi Minh, were an extremely competent group. They included persons well-versed in French Constitutional Law, Chinese Central Government Constitutional Law, and Chinese Communist Constitutional Law. HO chi Minh is familiar with American Constitutional Law. All the Drafters of course had thoroughly studied and digested the Soviet Russian Constitution and doctrine. The final Draft may therefore be considered to be a studied and deliberate attempt to embody all appropriate features derived from various sources, adapted to Indochinese conditions, and - above all - modified to meet the primary requirement of presenting a "Democratic" appearance. Despite the latter primary requirement, the Drafters felt obliged to include two essential features not generally found in Occidental Democratic countries: (a) The unicameral legislature (People's Assembly) and (b) The Permanent Committee (which in time of peace resembles the Politburo; in time of war, however, it tends to disappear from sight and be replaced in fact by the Tong-Ban).

The style of the Constitution in its original Annamese is sober, clear and simple. The language is dignified, lofty, and lacking in foreign expressions. The spirit (in appearance) is full of hope, insistence on the dignity of man, and respect for the individual. The tone is that of an instrument intended truly to serve the People, to be understood by them, and to become a national cultural document as well as a political one. It is a Constitution that is intended to be truly acceptable to the People, and at the same time to have propaganda value abroad in order to convince the Allies that Vietnam is a "true Democracy".

No reference is made in the Constitution to National Welfare Associations. This is because in theory these important instruments of Viet Minh control are not Governmental organs but voluntary organizations of the people. In the same way, no mention is made of political parties.)

#### TEXT:

#### CONSTITUTION

of the Democratic Republic of Vietnam, adopted 8 November 1946 by the General Assembly of the People of the whole Nation, promulgated 9 November 1946. Text printed for the People's Assembly of Vietnam.

#### Preamble

The August Revolution restored possession of the country to the Nation, gave liberty to the People, and created a Democratic Republic. After 80 years of ceaseless struggle, the People of Vietnam have succeeded in breaking the yoke of colonialism, and at the same time abolishing the regime of royalty and the mandarinate. Now the duty of the People is to safeguard the land, to regain complete independence for the Country, and to reconstruct it upon a Democratic basis.

The People's Assembly, having been entrusted by the People with the task of drawing up the first Constitution of the Democratic Republic of Vietnam, recognizes that the Constitution of Vietnam must embody the results of all the glorious exploits of the Revolution, and be built upon the following principles:

- To assure complete unity of the People, regardless of race, sex, class, or religion;
- To put into effect Democratic liberties;
- To bring into being a strong and enlightened regime of the People.

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- Through the spirit of unity and determination already acquired by the People, and under a broad Democratic regime, an independent and united Vietnam will advance along the path of glory and happiness, in step with the progress of the whole world, and in harmony with the desire of humanity for peace.

## Chapter I

### The Form of Government

Article 1. Vietnam is a Democratic Republic. The entire armed forces of the country belong to the citizens of Vietnam as a whole, irrespective of race, sex, class, or religion.

Article 2. The land of Vietnam is a complete and inseparable unity: Northern, Central, and Southern.

25X1X Article 2 recognizes as a fait accompli, and for all time, the complete Union of Tonkin, Annam, and Cochinchina - the welding of the three Ky into a single country. This Union has been one of the principal bones of contention between the French and the Vietnamese. The old word Ky, used under the French regime, and which indicated separate political entities, governed on different principles, is abandoned. In Article 2, it is not even necessary to use a substitute. In other parts of the Constitution, the word Bo, indicating a mere geographical division, is used instead of the word Ky.)

Article 3. The flag of the Democratic Republic of Vietnam is red, with a five-pointed yellow star in the middle.

This is the flag which the Nationalist Front say they will insist should be abandoned as it is clearly inspired by the USSR.)

The National Anthem is the "Tien Quan Ca" ("Song of the Advancing Army.")

The capital of Vietnam is Hanoi.

25X1X [REDACTED] the feudal tradition of the capital being at Hue is abandoned. It was from Hanoi that the Vietnamese people started their expansion and conquest toward the south hundreds of years ago; a stirring historical recollection for Vietnamese patriots. The choice of Hanoi as a capital not only serves to emphasize the glorious past, but - even more important - indicates the intention of reconstructing the country on modern lines and with a modern city as the capital. Ever since the Government was forced to abandon Hanoi to the French in December 1946, they still consider Hanoi to be the capital of the country, and official documents, even though in fact emanating from Thai Nguyen or Tuyen Quang, are usually dated Hanoi.)

## Chapter II

### The Duties and Rights of the Citizens

25X1X [REDACTED] These rights are political, social and cultural. The political rights are more or less the normal ones of a democracy; the social rights display a somewhat Socialist tendency; the cultural rights are ones on which the Viet Minh have been extremely insistent. It is in the field of popular education that they have in fact made their most striking advances.)

#### A - Duties

Article 4. Each citizen of Vietnam must:

- Defend the Fatherland;
- Respect the Constitution;
- Obey the Law.

Article 5. Each citizen of Vietnam has the moral duty to become a soldier.

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## B - Rights

Article 6. All the citizens of Vietnam have equal rights in the political, economic, and cultural fields.

Article 7. All the citizens of Vietnam are equal before the Law, and have the right to participate in the administration and reconstruction of the country, in accordance with their individual talents and character.

Article 8. Besides having equality of rights, those citizens belonging to the racial minority groups must be helped in every way in order that they may quickly reach the general standard.

Article 9. Women have the same rights as men in every way.

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Articles 8 and 9 are evidence of the importance attached by the Viet Minh to having the support of Racial Minority Groups ("Peuplades") and of women. The sincere attempts made by the Viet Minh to better their position are in marked contrast to the French practice: to play off one Minority Group against another and to display complete indifference to the position of subjection occupied by women under the feudalistic regime.)

Article 10. The citizens of Vietnam have the right to:

- Freedom of opinion;
- Freedom of publication;
- Freedom of organization and association;
- Freedom of religious belief;
- Freedom to live and travel within the country, as well as to leave the country to travel abroad.

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These lofty expressions of individual rights are in inspiring contrast to conditions under the French regime. The French scarcely even pretended to accord such rights to the Vietnamese. Whether the Viet Minh ever had any serious intention of implementing this provision for persons other than themselves is debatable. In practice, to date, it is an open secret that they are disregarded.)

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Article 11. The citizens of Vietnam shall not be arrested or detained except in accordance with existing law.

The same reasoning applies to this Article as that in the Note on Article 10.)

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Article 12. The homes and correspondence of the citizens of Vietnam are private property, and shall not be seized except in accordance with the law.

This Article is intended to demonstrate that "Vietnam is not Communist". It is a provision which is not always observed in practice.)

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Article 13. The interests of persons who perform productive work, intellectual as well as manual, shall be respected.

A provision to encourage people to work rather than be parasites.)

Article 14. Old or invalid citizens who cannot earn a living shall receive help. Children shall be cared for in order that they may receive a proper education.

Article 15. Primary education shall be compulsory and free of charge.

In local schools the citizens of minority racial groups may use their own dialects.

School children of poor families shall be given help and subsidies.

Private schools and institutions may be freely opened, but must conform to official programs.

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Article 16. Citizens of foreign countries who fight for freedom and democracy and who have been persecuted shall be given shelter and protection in the land of Vietnam.

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[REDACTED] The motivation of Article 16 is difficult to understand. Possibly an invitation to Indonesians, Burmese, Chinese Communists? Possibly an attempt to secure general goodwill abroad?

C - Election, Recall, and Review (? Referendum)

Article 17. The system of election is based upon universal suffrage.

Voting shall be free, direct, and by secret ballot.

Article 18. All the citizens of Vietnam, male or female, who shall have attained the age of 18 years, shall have the right to vote, except those who are found to be weakminded and those who shall have been deprived of their citizenship.

Candidates for election must be citizens who have the right to vote; in addition, they must be at least 21 years old, and must be able to read and write the national language.

Citizens who are in the army have the right to vote, and to become candidates for election.

Article 19. The system of voting shall be decided by law.

Article 20. The People have the right to recall the representatives whom they have elected in accordance with Articles 41 and 61.

Article 21. The People have the right to review and decide upon the Constitution and questions which involve the destiny of the Nation, in accordance with Articles 32 and 70.

### Chapter III

#### The People's Assembly

Article 22. The People's Assembly is the supreme organ of the Democratic Republic of Vietnam.

Article 23. The People's Assembly is charged with the responsibility for all National affairs; shall make the laws; shall decide the budget; and shall approve treaties and agreements which the Government may make with Foreign Powers.

Article 24. The People's Assembly is elected by the People of Vietnam to serve for a period of three years.

There shall be one Member of the Assembly for each 50,000 citizens.

The number of members from large cities and from racial minority groups shall be decided by law.

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[REDACTED] Members of the Assembly are elected from constituencies which are either Provinces, large Towns, or Tribal Areas. The number of Members from each constituency depends on the population of that Province, Town, or Tribal Area. In the case of the Provinces, there is one member for every 50,000 of population of that Province. In the case of Towns and of Tribal Areas, the proportion is to be determined later by law.)

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Article 25. Members shall not represent the citizens of their own locality only, but the whole nation as well.

Article 26. In case of doubt, the People's Assembly shall investigate to determine whether a Member has been elected legally.

The People's Assembly is empowered to accept the resignation of any of its Members.

Article 27. The People's Assembly shall designate a President of the Assembly, two Vice-Presidents, twelve Official Members, and three Reserve Members to form a Permanent Committee. The President and Vice-Presidents of the People's Assembly shall also be President and Vice-Presidents of the Permanent Committee.

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This is the Committee to which reference was made as "a Committee within the Government", in a previous report on "Vietnam: the 'Directing Committee'." In a subsequent report on the same subject it was reported that an official of the Nationalist Front stated that this provision of the Constitution had not been put into effect, and this Committee had never existed in fact. This statement was apparently an error. (1) In the late summer of 1946, the Official Journal of the Government (*Gong Bao*) made reference to the Permanent Committee "giving its approval" to a certain measure. (2) It seems clear that the Committee existed at that time. (3) However, since the re-commencement of hostilities in November/December 1946, it has tended to lose its importance in favor of the Tong-Bo of the Viet Minh Party. (4) The President of the Assembly and of the Permanent Committee is a mere figurehead and is usually an elderly non-Partisan.

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See previous reports for details of the Tong-Bo. For further remarks on the Permanent Committee see [redacted] at the beginning of this report.)

Article 28. The People's Assembly shall meet twice a year, being convened by the Permanent Committee in May and November.

In case of necessity, the Permanent Committee may call a special session of the People's Assembly.

The Permanent Committee shall call a special session if one-third of the Members of the Assembly demand it, or if the Government demands it.

Article 29. One-half of the membership of the People's Assembly shall constitute a quorum.

In meetings of the People's Assembly, a simple majority of the Members present shall be decisive.

An exception to this rule is that a Declaration of War shall require the assent of two-thirds of the Members present.

Article 30. The People's Assembly shall meet publicly. The public shall be admitted to these meetings. Representatives of the press may report the Assembly's debates and decisions.

In case of emergency, the People's Assembly may hold a secret session.

Article 31. When a law has been adopted by the People's Assembly, the President of the Republic of Vietnam shall promulgate it within a period of ten days after he has been informed by the Assembly. However, during that lapse of time, the President shall have the right to ask the Assembly to reconsider the proposed law. In case the Assembly, having reconsidered, still adopts the proposed law without change, the President shall then promulgate it.

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[REDACTED] This power to request reconsideration is quite different from veto power. The veto power is quite unnecessary, due to the widespread and deep-rooted methods of Viet Minh control. The time-limit provided in this Article, as well as elsewhere in the Constitution, is intended to avoid the delays supposed to be usually attendant upon Parliamentarian Governments).

Article 32. Important affairs which involve the destiny of the Nation shall be submitted to popular referendum upon the approval of two-thirds of the Assembly.

Article 33. When two-thirds of the Assembly approve, the Assembly may be dissolved. The Permanent Committee may, in the name of the Assembly, announce such a dissolution.

Article 34. When the People's Assembly reaches the end of its three-year term, or when, prior to this time, the Assembly is voluntarily dissolved, the Permanent Committee shall exercise all powers of the Assembly during the interim period prior to the meeting of a newly-elected People's Assembly.

25X1X In a comparison of Article 34 with Article 56, it is noted that these two Articles are apparently in complete contradiction with each other. This is a most exceptional fault in this otherwise carefully drafted document. Possibly the intention is that the Permanent Committee and the Cabinet should both continue to function in the interim period - but each in its own sphere, and in accordance with the powers granted to it by the previous Assembly. This curious confusion, which is perhaps the result of too condensed language, serves also to illustrate the fact that in reality the Communists who inspired the Constitution wished the Assembly to play a rather impotent role (like the other People's Committees; the Assembly is indeed the People's Committee on the National level.) It was intended that the Assembly should appear to have power, but in fact act as a rubber-stamp for the Government, and when necessary assume responsibility for unpopular decisions. A careful reading of other provisions of the Constitution suggest the same general intention.)

Article 35. Two months before the People's Assembly reaches the conclusion of its three-year term, the Permanent Committee shall announce new elections.

The new elections shall be completed within this two months' period prior to the conclusion of the Assembly's term. When the People's Assembly dissolves voluntarily, the Permanent Committee shall announce new elections immediately. The new elections shall be completed within two months after the Assembly's dissolution. The Permanent Committee shall call a general meeting of the new People's Assembly within one month after its election.

When the People's Assembly reaches the conclusion of its term during war-time, the Assembly or the Permanent Committee may prolong the Assembly's term indefinitely. But new elections shall be held within six months after the conclusion of the war.

Article 36. When the People's Assembly is not in session, the Permanent Committee shall have the right to:

- Adopt or reject drafts of new laws proposed by the Government.
- These laws shall be submitted to the Assembly for confirmation or rejection at its next session.

25X1X The language is condensed and obscure. The apparent meaning is that during intersessionary periods the Committee exercises the legislative power of the Assembly; a law adopted by the Committee becomes the provisional law of the land; but at the next session of the Assembly it must be confirmed or rejected. An alternative translation is as follows: "Approve or disapprove draft of new laws proposed by the Government, and determine whether or not they should be submitted to the Assembly at its next session." If the latter translation is correct, the Permanent Committee would seem to be a sort of Censor standing between the Government and the Assembly.)

- Call a general meeting of the Assembly.
- Control and criticize the Government.

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[REDACTED] This provision (c) is another one intended to give an appearance of Democracy, and to demonstrate that the Government can not become a Dictatorship as it is subject to controls by representatives of the People. In practice, however, as the Government and the Permanent Committee are both necessarily dominated by the same Party, there is likely to be little or no conflict between them. The true role of the Permanent Committee is to control and terrorize the People's Assembly.)

Article 37. In meetings of the Permanent Committee, a simple majority is decisive.

Article 38. When the People's Assembly is unable to meet, the Permanent Committee, in concert with the Government, shall have the right to declare war, or to declare the cessation of hostilities.

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[REDACTED] This important power in practice resides in the Government; approval by the Permanent Committee (dominated by the same Party as the Government) is a foregone conclusion.)

Article 39. At the end of each session of the Assembly, and after the submission of the Permanent Committee's report, there shall be a vote of confidence or non-confidence for the Permanent Committee if one-fourth of the members of the Assembly demand it. If a vote of non-confidence results, all the members of the Permanent Committee shall resign. Individual members of the Permanent Committee may be re-elected.

Article 40. Without the approval of the People's Assembly (when in session) or of the Permanent Committee (when the Assembly is not in session), the Government shall not have the right to arrest or convict any Member of the Assembly.

No Member of the Assembly shall be prosecuted by law because of anything he may have said or any vote he may have cast in the course of a session of the Assembly.

In case of open law-breaking, the Government has the right to arrest Members of the Assembly, but the fact must be reported to the Permanent Committee within twenty-four hours. The Committee or the Assembly shall then decide the issue.

If a member of the Assembly is deprived of the right to vote, he is also deprived of his rights as a Member of the Assembly.

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[REDACTED] These controls on the rights of the Government to interfere with Members of the Assembly are more apparent than real.)

Article 41. The Assembly shall discuss the dismissal of a Member if one-fourth of the voters of the Province or Town which has elected him demand it. If two-thirds of the Assembly approve the proposal, the Member in question shall resign.

Article 42. The allowances of Members shall be decided by law.

#### Chapter IV

Article 43. The highest Administrative Organ of the Nation is the Government of the Democratic Republic of Vietnam.

Article 44. The Government is composed of the President of the Democratic Republic of Vietnam, the Vice-President, and the Cabinet. The Cabinet is composed of the Premier, the Ministers, and the Vice-Ministers. It may also include Assistant Vice-Ministers.

Article 45. The President of the Democratic Republic of Vietnam shall be elected from among the Members of the Assembly; election shall be by vote of two-thirds of the Members of the Assembly.

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If at the first ballot, no one candidate receives the necessary majority, then at the second ballot a simple plurality shall be sufficient for the election of a President.

The President of the Democratic Republic of Vietnam shall be elected for a term of five years. At the end of that term, he may be re-elected. One month before the expiration of the President's term of office, the Permanent Committee shall call a general meeting of the People's Assembly to elect the new President of the Republic.

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[REDACTED] At the present time, HO chi Minh occupies the dual position of president of the Republic and Premier. He was formerly also Minister of Foreign Affairs - a position which he has since accrcded to HOANG minh Giam.)

Article 46. The Vice-President of the Democratic Republic of Vietnam is elected from among the Members of the People's Assembly in accord with ordinary principles.

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[REDACTED] This means a simple majority).

The term of office of the Vice-President is concurrent with that of Members of the Assembly.

The Vice-President shall assist the President. If the President dies or resigns, the Vice-President shall provisionally replace him. A new President shall be elected within two months' time.

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Article 47. The President of the Democratic Republic of Vietnam shall choose the Premier from among the Members of the Assembly, and shall present him to the Assembly for confirmation. If the Premier receives the confirmation of the Assembly, he shall choose the Ministers from among the Members of the Assembly, and shall present them to the Assembly for confirmation. The Premier shall also choose the Vice-Ministers. The latter do not necessarily have to be Members of the Assembly. They must be presented to the Government for approval.

[REDACTED] The last provision permits the choice of technicians rather than political figures for the routine work of Ministries. It also permits the Viet Minh to name as Ministers respectable but impotent non-members of the Party, and to give the Vice-Ministerial post to an efficient Party member who will actually run the Ministry. This was true of the Ministry of the Interior in early 1947. The Minister, HUYNH thuc Khang, was an ineffectual figure-head; true power was wielded by the able, energetic, and Communistic HCANG mu Nam (PHAN Dic). Both the Minister and the Vice-Minister died in April 1947. (See previous reports). By making use of this Constitutional provision, the Viet Minh may name as Vice-Minister an inconspicuous but powerful figure - for instance a returned student from Moscow, bearing an assumed name.)

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Members of the Permanent Committee may not be appointed to Government posts.

[REDACTED] The purpose of the last sentence is to give an appearance of Democracy.)

Article 48. If a Ministerial post falls vacant during an interregnum period, the Premier shall, in agreement with the Permanent Committee, choose a replacement to act in the interim period. The replacement shall be presented for confirmation at the next meeting of the Assembly.

Article 49. The President of the Democratic Republic of Vietnam is vested with the following powers:

- a. To represent the Nation;
- b. To be Commander-in-Chief of the Armed Forces of the country; to name or dismiss high-ranking officers of the Army, Navy, and Air Force;
- c. To sign the decree appointing the Premier, the Members of the Cabinet, and the senior Members in the Departments of the Government;

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- d. To preside over Cabinet meetings;  
e. To promulgate laws passed by the People's Assembly;  
f. To award decorations and diplomas of honor;  
g. To grant pardons;  
h. To sign treaties with other Nations;  
i. To send Vietnamese diplomatic and consular representatives to foreign countries, and to receive foreign representatives;  
j. To declare war or to declare the cessation of hostilities in accordance with Article 38.

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[REDACTED] This (i) is a right on which the Vietnamese have been most insistent in all their negotiations with the French.)

j. To declare war or to declare the cessation of hostilities in accordance with Article 38.

Article 50. The President of Vietnam shall not be held responsible for any official acts except only those involving High Treason.

Article 51. When prosecuting the President, the Vice-President, or any member of the Cabinet for High Treason, the People's Assembly shall form a Special Court to try him or them.

The arrest or prosecution of any member of the Cabinet for common crimes may not take place without the approval of the Government.

Article 52. The Government is vested with the following powers:

- a. To execute the laws passed by the Assembly;
- b. To present drafts of proposed laws to the Assembly;
- c. To present drafts of proposed laws to the Permanent Committee in case of emergency when the Assembly is not in session;
- d. To countermand orders given by junior organs of the Government, if necessary;
- e. To name or dismiss members of the different administrative or technical services of the Government;
- f. To put into effect the law of mobilization and any other measures necessary for the security of the Nation;
- g. To prepare the yearly budget.

Article 53. Each decree of the Government shall be signed by the President of Vietnam and by one or several Ministers in accordance with their functions. These Ministers shall be responsible before the People's Assembly for the execution of these decrees.

Article 54. When a Minister does not have the confidence of the People's Assembly, he shall resign. The Cabinet as a unit shall not be held responsible for the deeds of a Minister. The Premier is responsible for the general policies of the Cabinet. The People's Assembly may hold a vote of confidence or non-confidence regarding the Premier only when the Permanent Committee or one-fourth of the Members of the Assembly approve it. Within twenty-four hours after the People's Assembly has given a vote of non-confidence in the Cabinet, the President of Vietnam has the right to request the Assembly to reconsider. The debate of reconsideration shall take place not less than forty-eight hours after the original vote. If the Cabinet still does not receive a vote of confidence from the People's Assembly, it shall resign.

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[REDACTED] As the Cabinet is the creation of the Premier, a vote of non-confidence regarding the Premier is the same thing as a vote of non-confidence regarding the Cabinet. (Compare French Constitutional Law).

Article 55. The Ministers shall answer verbally or in writing any questions asked them by the People's Assembly or by the Permanent Committee. The answer shall be given within ten days of receiving the question.

Article 56. When the People's Assembly reaches the conclusion of its term or is voluntarily dissolved, the Cabinet shall exercise the Assembly's powers until the new Assembly is formed.

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[REDACTED] (Compare Article 34.)

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## Chapter V

## The People's Committees and the Executive Committees

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In this chapter, certain Annamese terms have been freely translated for greater clarity. "Hoi-Dong Nhan-Dan" (literally "People's Council") is translated as People's Committee, as this is the name by which the organization is best known in English ("Comite du Peuple" in French), "Uy-Ban Hanh-Chinh" (popularly known as the U B H C (literally Administrative Commission) is translated as Executive Committee ("Comite Executif" in French). The Executive Committees are sometimes referred to by various other names in the press, but can usually be identified by their functions. In documents of the Indochinese Communist Party, Executive Committees and the Government itself are often designated by the Russian word Soviet, spelled "So-viet" in Annamese. "Nghi-Vien Nhan-Dan" (note the dot under "e" in "Vien"; literally People's Parliament) is translated as People's Assembly ("Assemblee du Peuple" in French). It is sometimes referred to in the press as the National Assembly ("Assemblee Nationale"). "Nghi-Vien Nhan-Dan" (without dot under "e" in "Vien") means Member of the Assembly, and is so translated. The foreign press sometimes refers to them as "Deputies" or "Delegates"; but the word "Delegate" also has other meanings, particularly in the Communist Party.)

Article 57. From the Administrative point of view, Vietnam is composed of three Bo: Northern, Central, and Southern.

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See Note on Article 2.)

Each Bo is subdivided into Tinh (Provinces). Each Tinh is divided into Huyen (Sub-prefectures)

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Huyen = Chinese Hsien.)

Each Huyen is divided into Xa (Villages).

Article 58. In each Tinh (Province) and in each Thanh-Pho (large Town), as well as in each Thi-Xa (Precinct of a Town) or Xa (Village in the country), there are People's Committees elected by direct vote and universal suffrage. The People's Committees of the Tinh, Thanh-Pho, and Thi-Xa or Xa elect the Executive Committees of those sub-divisions.

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For the Bo and the Huyen, there are only the Executive Committees. The Executive Committee of the Bo is elected by the People's Committees of all of the Tinh and the Thanh-Pho composing that Bo. The Executive Committee of the Huyen is elected by the Peoples Committees of all of the Xa composing that Huyen. [REDACTED] In a previous report on the People's Committees, it was stated that the People's Committees on each level were elected by direct vote of the population concerned, and that on each level the Executive Committee was chosen by the People's Committee on the same level, with the approbation of the Executive Committee on the next higher level. This statement, by [REDACTED] was partly in error. The exceptions, as will be seen from Article [REDACTED] are on the levels of Bo and Huyen.)

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[REDACTED] These exceptions appear to have been made solely in the interest of simplifying elections. Furthermore, according to the Constitution, election to the Executive Committee does not require approbation of the Committee on the next higher level; however, all the acts of the Executive Committees are required to be in accordance with directives from the Executive Committees on higher levels.)

Article 59. The People's Committees shall decide matters relating to their own locality. These decisions shall not be in conflict with the directives of Committees on higher levels. The Executive Committee shall be charged with the duties of:

- a. Executing orders given by higher authorities;
- b. Executing the decisions of the People's Committee on its own level, after having been approved by the Executive Committee on the next higher level;
- c. Directing the administration of the locality.

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Article 60. The Executive Committee is responsible to the Committees on higher levels, and to the People's Committee on its own level.

[REDACTED] on Articles 59 and 60: According to the Constitution, the Executive Committee is concurrently responsible to the People's Committee on its own level and to the Executive Committee on the next higher level. In practice (as has been pointed out in previous reports) the latter responsibility is the only important one. People's Committees tend to become mere rubber stamps. At one time, immediately before and after the Japanese surrender, the People's Committees (at that time called "Uy-Ban Cach-Mang Nhan-Dan" - "People's Revolutionary Committees" - a translation of the sense of the Russian word "Soviet") were in fact extremely powerful. This fact threatened the Viet Minh control in certain regions where the Q.D.D.-Dong Minh Hoi or the Trotskyists held considerable popular following. The situation was corrected from the Viet Minh point of view during the period November 1945-January 1946. Power was centralized. The final enunciation of this change is to be seen in Article 62.)

Article 61. The members of the People's Committees and of the Executive Committees shall be subject to removal. The conditions governing such removal will be designated by law.

Article 62. Governmental decrees will define exactly the details of organization of People's Committees and Executive Committees.

## Chapter VI

### Organs of Justice

Article 63. The Organs of Justice of the Democratic Republic of Vietnam comprise:

- a. The Supreme Court;
- b. Courts of Appeal;
- c. Courts of First and Second Instance.

Article 64. The Judges or Magistrates shall be appointed by the Government.

Article 65. In criminal cases, there shall be a Jury of the People. In criminal cases of minor importance, the Jury shall be present at, and participate in, the trial. In important criminal cases, the Jury shall render the decision together with the Judge.

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[REDACTED] In practice, this means that the Jury becomes the scapegoat for unpopular decision by Viet Minh Judges.)

Article 66. The members of the Racial Minority Groups may use their own dialect before the Court.

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[REDACTED] Another instance of the Viet Minh attempt to woo the Minorities. Also a distinct departure from French practice.)

Article 67. Except in special circumstances, the sessions of Courts shall be open to the public. The defendant may defend himself, or may employ a lawyer to defend him.

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Article 68. It is absolutely forbidden to torture, beat, or ill-treat the accused either before or after judgment.

[REDACTED] This provision is a great departure from conditions existing under the French regime. Unfortunately, it is not followed in practice.)

Article 69. In a trial, the Judges and Magistrates shall conform to the laws, and no other organs shall have the right to intervene.

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## Chapter VII

- Article 70. The process for amending the Constitution is as follows:
- a. Two-thirds of the People's Assembly must demand it;
  - b. The People's Assembly must elect a Commission to draft the proposed amendment;
  - c. The amendment, when it has been approved by the Assembly, must be immediately submitted to popular referendum.

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